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UNCLAS HARARE 002454

SIPDIS

ECA/PE/V/F/E for RNEILSON AND ECONNOLLY
NSC FOR SENIOR AFRICA DIRECTOR J. FRAZER & D. TITLEBAUM
LONDON FOR C. GURNEY
PARIS FOR C. NEARY
NAIROBI FOR T. PFLAUMER

SENSITIVE

E.O. 12958: N/A

TAGS: [PHUM](#) [SOC](#) [PGOV](#) [KPAO](#) [KMDR](#) [ZI](#)

SUBJECT: GOVERNMENT SHUTTERS DAILY NEWS -- AGAIN

REF: (A) HARARE 2309 (B) HARARE 1997 and previous

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11. SUMMARY: Armed riot police prevented The Daily News (TDN) from publishing following an administrative court ruling December 19 permitting the paper to resume operations. The developments confirm the government's intention to keep TDN closed regardless of any court rulings - at least until the Supreme Court rules on the case next year. END SUMMARY
12. The President of the Administrative Court, Justice Selo M. Nare, handed down a judgment December 19 allowing enforcement of the September 24 judgment made by Administrative Court Justice Michael Majuru, which permitted the TDN to publish after November 30 (reftels). Nare ruled that the Associated Newspapers of Zimbabwe should be allowed to publish notwithstanding the filing of a notice of appeal in the Supreme Court by the Media and Information Commission (MIC). Justice Nare found in favor for the ANZ on the basis that the MIC would not suffer any potential or actual irreparable harm if leave to enforce the previous judgment were granted. Nare ruled that the ANZ stood to suffer irreparable harm or prejudice if leave to execute pending appeal was denied, and that the MIC appeal to the Supreme Court was frivolous and vexatious.
13. By its terms, the Nare ruling allowed TDN to resume operations even as the MIC appeal wound its way through the Supreme Court. ANZ legal advisor Gugulethu Moyo confirmed to the embassy December 23 that the police responded swiftly to the judgment by going to the TDN offices on December 19 to stop TDN from publishing. Moyo told us that ANZ wrote a letter to the Commissioner of Police, Mr. Augustine Chihuri on December 20 noting that the police were acting unlawfully. The Commissioner has not yet responded to the letter. Moyo does not anticipate that the Supreme Court, which is in recess, will hear the MIC appeal until next year.
14. COMMENT: Like those before it, TDN's latest favorable judgment has proven a dead end. Orchestrating government efforts to eliminate the publication once and for all is Information Minister Jonathan Moyo, whose government-controlled press continues to cast TDN as a key pillar of British efforts to overthrow Mugabe. Characterizing the judge's opinion as "blatantly political", the American-educated Minister publicly justified the police's action by ascribing to them responsibility for implementing law that courts were only empowered "to interpret". ANZ personnel are increasingly despondent about the future of TDN and its prospects of publishing in the near future. Asked about the way forward, ANZ attorney Moyo responded only that further legal action would be a "futile exercise" in view of the de facto bar against publication.